



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/716,343

11/17/2003

James W. Myrland

27420007

7625

25005 7590 07/10/2007

DEWITT ROSS & STEVENS S.C.

8000 EXCELSIOR DR

SUITE 401

MADISON, WI 53717-1914

EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

MAIL DATE

DELIVERY MODE

07/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/716,343

Applicant(s)

MYRLAND, JAMES W.

Examiner

Jerome W. Donnelly

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/12/04
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application. 1, 2, 4-10, 12-18, 20-35 and 37-53
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed. 46 and 47
- 6) ☒ Claim(s) _____ is/are rejected. 1, 2, 6, 7, 12, 16, 18, 20, 25-29, 32, 34, 35, 39-42, 48-50 and 51
- 7) ☒ Claim(s) _____ is/are objected to. 4, 5, 8, 9, 10, 13-15, 17, 21-24, 30, 31, 33, 37, 38, 43-45, 52 and 53
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

JEROME DONNELLY
PRIMARY EXAMINER



Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claims 4, 5, 8, 9, 10, 13, 14, 15, 17, 21, 22, 23, 24, 30, 31, 33, 37, 38, 43, 44, 45, 52 and 53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 46 and 47 are allowed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Holworthy.

Holworthy discloses a device comprising an upper cross bar D, having opposing cross bar ends first and second struts extending vertically, the second strut being spaced from the first strut, lower legs K and B, all three of legs K and B including collars, and said support legs being movable about an axis of said first struts.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Banniza et al 4878303.

Banniza et al discloses a device comprising, a cross bar, two vertically extending struts a lower leg having a collar rotatably fitting around said first strut to move into and out of coplanar alignment with the first strut (see fig. 1).

Art Unit: 3764

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holworthy in view of Chen Wu.

Holworthy discloses a device wherein strut members are telescopically height adjustable.

Holworthy however does not disclose his device as including spaced indentations and elastically biased locking members as claimed.

Chen Wu teaches spaced indentations and an elastically bias locking member see fig. 2.

Given the above teaching of Chen Wu the examiner note that it would have been obvious to one of ordinary skill in the art to connect together using indentations/apertures and spring biased locking members in view of the locking telescopic arrangement of Chen Wu.

Claims 12, 18, 20, 25, 26, 27, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Chen Wu.

Chen discloses a device comprising: a horizontal upper cross bar having ends intragal with first and second struts, said struts descending vertically from said cross bar a support leg 1, said support leg being movable about the axis of the first strut to move in and out of coplanar alignment with the first strut and cross bar and a locking assembly including curved surfaces indentations and being elastically biased.

In regard to claim 29, note element (132) of Chen Wu.

Claims 16, 32, 34, 39-42, 46 and 48-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen Wu in view of Holmes.

Chen discloses the device of the above claims substantially a claimed absent the teaching of "discretely spaced locations" along the length of the second strut.

Holmes teaches (discretely spaced locations) along the length of his struts, (see elements 28) for the purpose of adjusting the height of cross bar (27).

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to provide additional indentations/apertures (23) along the length of the strut members of Chen Wu for the purpose of adjusting the height of the cross member (21) of Chen Wu.

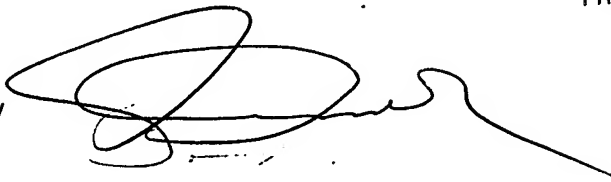
In regard to claims 16 and 32 and in response to the applicants claims directed to the cross bar including an aperture and a collection handle as claimed, the examiner draws the applicants attention to fig. 7 of Chen Wu. Chen Wu discloses a device wherein a handle (14) is inserted into an aperture (17) of cross member (12).

The examiner notes that as an alternate location cross bar, into which a collection strip and aperture could be place is the cross bar (2) of Chen Wu, thereby providing the device with similar portability capabilities when providing hurdle assemblies with carrying handles and collection strips.

Art Unit: 3764

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a long horizontal stroke extending to the right.

JEROME DONNELLY
PRIMARY EXAMINER

JEROME DONNELLY
PRIMARY EXAMINER